

Message Text

CONFIDENTIAL

PAGE 01 STATE 066193
ORIGIN L-03

INFO OCT-01 ISO-00 /004 R

66011

DRAFTED BY:L:MARK B FELDMAN

APPROVED BY:L:MARK B FELDMAN

-----118648 151459Z /47

R 150325Z MAR 78

FM SECSTATE WASHDC

TO ALL OECD CAPITALS

AMEMBASSY ALGIERS

AMEMBASSY BANGKOK

AMEMBASSY BOGOTA

AMEMBASSY BRASILIA

AMEMBASSY CARACAS

AMEMBASSY DAMASCUS

AMEMBASSY FREETOWN

USMISSION GENEVA

AMEMBASSY ISLAMABAD

AMEMBASSY JAKARTA

AMEMBASSY JIDDA

AMEMBASSY KINGSTON

AMEMBASSY KINSHASA

AMEMBASSY KUALA LUMPUR

AMEMBASSY LAGOS

AMEMBASSY LA PAZ

AMEMBASSY MANILA

AMEMBASSY MEXICO

AMEMBASSY NAIROBI

AMEMBASSY NEW DELHI

AMEMBASSY PORT OF SPAIN

AMEMBASSY QUITO

AMEMBASSY SAN JOSE

AMEMBASSY SANTO DOMINGO

AMEMBASSY SINGAPORE

AMEMBASSY TEHRAN

CONFIDENTIAL

CONFIDENTIAL

PAGE 02 STATE 066193

C O N F I D E N T I A L STATE 066193

FOLLOWING REPEAT USUN 00866 ACTION SECSTATE MARCH 11.

QUOTE C O N F I D E N T I A L USUN NEW YORK 00866

EPARTMENT PASS ALL DIPLOMATIC POSTS

E.O. 11652: GDS

TAGS: EGEN, UN, ECOSOC, EINV

SUBJECT: ECOSOC WORKING GROUP ON CORRUPT PRACTICES

1. SUMMARY: THE FIRST SESSION OF THE RESUMED ECOSOC WORKING GROUP ON CORRUPT PRACTICES CONCENTRATED PRIMARILY ON A FRENCH PROPOSAL FOR A TREATY ON BRIBERY ANALOGOUS TO THE HAGUE CONVENTION ON HIJACKING, WHICH WOULD INCLUDE PROVISIONS FOR CRIMINALIZATION OF THE OFFENSE, EXTRADITION, AND JUDICIAL ASSISTANCE. WORK WAS CONCENTRATED ON TECHNICAL LEGAL QUESTIONS AND DID NOT COVER MUCH GROUND. MOST OF THE DISCUSSION WAS CARRIED BY THE DEVELOPED COUNTRIES. THE LDC'S MAINTAINED A PASSIVE ATTITUDE, AND NO POLITICAL QUESTIONS WERE RAISED IN THE MEETINGS. END SUMMARY.

2. THE ECOSOC AD HOC INTERGOVERNMENTAL WORKING GROUP ON CORRUPT PRACTICES, EXTENDED AND EXPANDED TO INCLUDE ALL INTERESTED UN MEMBERS UNDER ECOSOC RESOLUTION 2122, HELD ITS FIRST SESSION IN NEW YORK MARCH 6-10. A SECOND SESSION IS SCHEDULED FOR NEW YORK APRIL 3-14. THE INTERGOVERNMENTAL WORKING GROUP (IGWG) ELECTED A BUREAU CONSISTING OF FARROKH PARSI (IRAN) AS CHAIRMAN, ACEMAH (UGANDA) AS RAPPORTEUR, AND MOK (NETHERLANDS) AND BOTERO (COLOMBIA) AS VICE CHAIRMEN. THE SOCIALIST GROUP COUNTRIES ARE CONFIDENTIAL

CONFIDENTIAL

PAGE 03 STATE 066193

NOT PARTICIPATING, SO NO EE VICE CHAIRMAN WAS ELECTED. ALTHOUGH THE WORKING GROUP IS NOW OPEN TO ALL MEMBERS OF THE UN WITH MANY ADDITIONAL COUNTRIES INSCRIBED AS MEMBERS, THERE WAS VERY LITTLE PARTICIPATION BY DEVELOPING COUNTRIES WHO DID NOT PARTICIPATE IN LAST YEAR'S WORKING GROUP. DESPITE PRIOR INDICATIONS TO THE CONTRARY, THE PHILIPPINES AND GHANA DID NOT ATTEND. THAILAND WAS REPRESENTED OCCASIONALLY BY A BUSINESSMAN FROM NEW YORK. MOST OF THE DELEGATIONS FROM THE INDUSTRIAL COUNTRIES INCLUDED EXPERTS FROM CAPITALS, BUT MOST LDC'S WERE REPRESENTED BY JUNIOR OFFICIALS FROM THEIR UN MISSIONS. WORK SESSIONS USUALLY STARTED VERY LATE BECAUSE OF THE DIFFICULTY OF OBTAINING THE NECESSARY QUORUM OF FOUR DELEGATIONS FROM EACH REGIONAL GROUP.

3. THE KEY DEVELOPMENT OF THE SESSION WAS THE INTRODUCTION BY FRANCE OF A COMPLETE TEXT OF A TREATY ON BRIBERY WHICH FRANCE PROPOSED AS AN ALTERNATIVE TO THE REPORT OF LAST YEAR'S WORKING GROUP. THE FRENCH TEXT CONSISTED OF SEVEN ARTICLES DEFINING THE OFFENSE AND REQUIRING CONTRACTING STATES TO MAKE THE OFFENSE PUNISHABLE BY SEVERE PENALTIES AND TO ESTABLISH THEIR JURISDICTION OVER THE OFFENSE

WHEN COMMITTED IN ITS TERRITORY OR BY ONE OF ITS NATIONALS. THE TEXT ALSO INCLUDED PROVISIONS FOR JUDICIAL ASSISTANCE, EXTRADITION, AND AN OBLIGATION EITHER TO PROSECUTE OR EXTRADITE ON THE GENERAL LINES OF THE HAGUE CONVENTION ON HIJACKING. THIS FRENCH TACTIC, WHICH WAS NOT COORDINATED IN ADVANCE WITH OTHER MEMBERS OF THE EC, WAS AIMED AT DISPLACING THE REPORT OF THE PRIOR WORKING GROUP WHICH ENCOMPASSED SEVERAL OTHER SUBJECTS INCLUDING THE REPORTING AND DISCLOSURE PROVISIONS PROPOSED BY THE U. S. AND PROVISIONS ON PAYMENTS OF TAXES AND ROYALTIES TO "ILLEGAL MINORITY REGIMES IN SOUTHERN AFRICA." FROM THE U. S. STANDPOINT, IT WAS A POSITIVE DEVELOPMENT IN THAT IT REPRESENTS THE FIRST FRENCH COMMITMENT TO AN INTERNATIONAL AGREEMENT ON ILLICIT PAYMENTS AND INCLUDES CRIMINALIZATION, ONE OF THE MAJOR

CONFIDENTIAL

CONFIDENTIAL

PAGE 04 STATE 066193

U. S. SUBSTANTIVE OBJECTIVES. HOWEVER, THE FRENCH MANEUVER PRESENTS THE U. S. WITH A NUMBER OF SUBSTANTIVE AND TACTICAL PROBLEMS. IF ADOPTED IN ITS ORIGINAL FORM, THE FRENCH PROPOSAL WOULD REQUIRE REVISION OF THE RECENTLY ADOPTED FOREIGN CORRUPT PRACTICES ACT TO INCLUDE ANY BRIBE OF A FOREIGN OFFICIAL BY ANY U. S. NATIONAL "IN CONNECTION WITH" ANY INTERNATIONAL COMMERCIAL TRANSACTION, NOT JUST FOR THE PURPOSE OF OBTAINING OR RETAINING BUSINESS, AND IRRESPECTIVE OF THE USE OF THE MAILS OR ANY OTHER LINK TO U. S. COMMERCE.

4. IN ORDER TO ENCOURAGE FRENCH PARTICIPATION AND TO HELP BRING ALONG THE UK AND THE FRG, WHO WERE PLAINLY DISCONCERTED BY THE FRENCH PROPOSAL, U. S. DEL AGREED TO TAKE THE FRENCH TEXT AS THE BASIS FOR DISCUSSION OF THE CHAPTER OF THE WORKING GROUP REPORT ON CRIMINALIZATION AND TRIED TO MODIFY THE TEXT TO TAKE ACCOUNT OF U. S. INTERESTS AND THE PREVIOUS WORK OF THE WORKING GROUP. IN VIEW OF THE DIFFERENCES IN STRUCTURAL APPROACH, THIS BECAME AN EXTREMELY PAINFUL DRAFTING EXERCISE WHICH MADE ONLY MODEST PROGRESS. IT IS APPARENT THAT THE FRENCH WILL RESIST ANY SIGNIFICANT CHANGES IN THEIR TEXT AND ARE IN NO HURRY TO RESOLVE ANY ISSUES.

5. DURING THE FORMAL MEETINGS OF THE WORKING GROUP, THE U. S. DELEGATION EMPHASIZED ITS STRONG INTEREST IN INCLUDING PROVISIONS DEALING WITH REGULATION OF AGENTS IN THE AGREEMENT, AND WE CIRCULATED TO OECD DELEGATIONS AN INFORMAL PAPER, EMPHASIZING RECORD-KEEPING AND EXCHANGE OF INFORMATION ON AGENTS' FEES AS WELL AS CRIMINALIZATION.

6. DURING THE COURSE OF THE MEETING U. S. DEL ALSO HAD AN INFORMAL CONSULTATION WITH THE MEXICAN AMBASSADOR TO THE

CONFIDENTIAL

CONFIDENTIAL

PAGE 05 STATE 066193

UN CUEVAS CANCINO AND SERGIO GONZALEZ-GALVES WITH A VIEW TO ENCOURAGING A DIALOGUE WITH MEXICO AND OTHER LDC'S ON THE SUBSTANCE OF THE AGREEMENT. GONZALEZ-GALVES EMPHASIZED THAT MEXICO REMAINS PREOCCUPIED WITH THE ULTIMATE LINK BETWEEN THE AGREEMENT ON ILLICIT PAYMENTS AND THE GENERAL CODE OF CONDUCT ON TNC'S. THE GOM APPEARED INDIFFERENT TO THE SUBSTANCE OF THE AGREEMENT. HOWEVER, GONZALEZ GALVES DID EXPRESS INTEREST IN BILATERAL CONSULTATIONS BETWEEN APPROPRIATE U. S. AND MEXICAN OFFICIALS ON THE BILATERAL IMPLICATIONS OF THE ADMINISTRATION OF U. S. AND MEXICAN LAWS ON BRIBERY. YOUNG UNQTE VANCE

CONFIDENTIAL

NNN

Message Attributes

Automatic Decaptioning: X
Capture Date: 01 jan 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: BRIBERY, COMMITTEE MEETINGS, MEETING REPORTS
Control Number: n/a
Copy: SINGLE
Draft Date: 15 mar 1978
Decaption Date: 01 jan 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 20 Mar 2014
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1978STATE066193
Document Source: CORE
Document Unique ID: 00
Drafter: L:MARK B FELDMAN
Enclosure: n/a
Executive Order: GS
Errors: N/A
Expiration:
Film Number: D780115-0439
Format: TEL
From: STATE
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1978/newtext/t19780365/aaaaccoo.tel
Line Count: 186
Litigation Code IDs:
Litigation Codes:
Litigation History:
Locator: TEXT ON-LINE, ON MICROFILM
Message ID: f940cec6-c288-dd11-92da-001cc4696bcc
Office: ORIGIN L
Original Classification: CONFIDENTIAL
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 4
Previous Channel Indicators: n/a
Previous Classification: CONFIDENTIAL
Previous Handling Restrictions: n/a
Reference: n/a
Retention: 0
Review Action: RELEASED, APPROVED
Review Content Flags:
Review Date: 27 apr 2005
Review Event:
Review Exemptions: n/a
Review Media Identifier:
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
SAS ID: 3321411
Secure: OPEN
Status: NATIVE
Subject: ECOSOC WORKING GROUP ON CORRUPT PRACTICES
TAGS: EGEN, EINV, FR, UN, ECOSOC
To: OECD POSTS ALGIERS MULTIPLE
Type: TE
vdkgvwkey: odb://SAS/SAS.dbo.SAS_Docs/f940cec6-c288-dd11-92da-001cc4696bcc
Review Markings:
Sheryl P. Walter
Declassified/Released
US Department of State
EO Systematic Review
20 Mar 2014
Markings: Sheryl P. Walter Declassified/Released US Department of State EO Systematic Review 20 Mar 2014